

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF PENNSYLVANIA

IN RE: Rena Oliver,
Debtor

Fay Servicing, LLC as servicer for
LSF9 Master Participation Trust,
Movant
v.

Rena Oliver-Debtor
Scott F. Waterman- Trustee,
Respondents

CASE NO.: 21-12331-amc

CHAPTER 13

Judge: Ashely M. Chan

Hearing Date: December 1, 2021 at 11:00 am

**REPLY TO DEBTOR’S ANSWER TO MOTION FOR RELIEF FROM
AUTOMATIC STAY AND IN REM/PROSPECTIVE RELIEF**

Fay Servicing, LLC as servicer for LSF9 Master Participation Trust replies in further support of the Motion for Relief from Automatic Stay and In Rem/Prospective Relief filed on October 28, 2021 (ECF Doc. No. 20, the “Motion”), and in reply to the Answering Affirmation filed on November 2, 2021 (ECF Doc. No. 21, the “Objection”) as follows:

1. Movant is the current holder and servicer of a Note and Mortgage (the “Loan”), dated December 16, 2004, encumbering real property located at encumbering real property located at 500 S. Warminster, Hatboro, PA 19040 (the “Property”), as more fully set forth in the Motion.
2. The Debtor, Rena Oliver, filed the instant voluntary petition for relief under Chapter 13 of the U.S. Bankruptcy Code on August 24, 2021.
3. On October 28, 2021, Fay Servicing, LLC, filed a timely Proof of Claim evidencing the Loan, Claim No. 2-1 (the “Claim”). The filed Claim indicates a total debt of \$1,002,250.82 and pre-petition arrears of \$463,531.01.

4. On September 21, 2021, the Debtor filed a Chapter 13 Plan (ECF Doc. No. 13, the “Plan”). The Plan provided for sale of the property by December 31, 2021 or Movant may certify default and obtain Relief from the Automatic Stay.

5. Debtor is contractually due for the September 1, 2012 payment.

6. Furthermore, Debtor has made no post-petition payments and is post-petition due for the September 1, 2021-November 1, 2021 payment at \$4,655.79 per month.

7. Per the filed Claim, Debtor has \$201,281.83 in escrow advances due as of filing date and Movant is force placing homeowners and flood insurance. A copy of the most recent Escrow Analysis completed is attached hereto as **Exhibit “A”**.

8. Per Debtor’s Schedule “J” filed on September 21, 2021, Debtor has a monthly net income of \$300.00 available for plan payments and indicates her monthly home ownership expense is \$1,200.00, which is well below the escrow portion of the current monthly mortgage payment. A copy of Debtor’s Schedule “J” is attached hereto as **Exhibit “B”**.

9. Furthermore, Movant and Timothy Oliver entered into a stipulation in Settlement of Motion for Relief in the prior bankruptcy filing (19-13389-mdc) and filed an Amended Plan that confirmed where Debtor and Co-Debtor were given time to sell the property and agreed to allow Relief from Stay to be entered if the property had not sold by July 20, 2020. A copy of the Stipulation is attached hereto as **Exhibit “C”** and a copy of the Debtor’s prior confirmed plan is attached as **Exhibit “D”**.

10. After failing to complete a sale of the property, Movant again sought relief and an Order was entered on September 30, 2020 granting Relief from the Automatic Stay. A copy of the Order is attached hereto as **Exhibit “E”**.

11. Debtor's instant bankruptcy filing stayed the Sheriff's Sale scheduled for the following day.

12. A Broker's Priced Opinion ("BPO") completed on January 26, 2021 indicates the property has a value of \$950,000.00, which is less than the total debt due at time of filing. A copy of the BPO is attached hereto as **Exhibit "F"**.

WHEREFORE, Movant respectfully submits that the Motion was and is appropriate and valid; and requests that the Motion be granted; and such other and further relief as this Court may find just and proper.

Dated: November 23, 2021

By: /s/ Jonathan Schwalb
Jonathan Schwalb, Esq.
FRIEDMAN VARTOLO LLP
Attorneys for Movant
1325 Franklin Avenue, Suite 160
Garden City, New York 11530
T: (212) 471-5100
F: (212) 471-5150
Bankruptcy@FriedmanVartolo.com